

## PML - guide to buying a boat

Decided to buy a boat? Fantastic! There are many guides out there on the internet to help you choose the right one. This guide is to help you to avoid the potential legal minefield. There is nothing worse than paying good money and then finding out that you have bought a lemon, or even worse, that the person you bought the boat from was less than truthful about their ownership rights.



We assume that you have:

- Found a boat that suits you and how you will use it.
- Negotiated a good deal, and the boat that you are buying has a price similar in range to other comparable boats.
- Engaged an independent marine surveyor to check the hull, engine, and accessories. Look for a surveyor with professional indemnity insurance and correct credentials, such as AMSA accreditation for commercial vessels.
- Enquired as to any warranties that apply to the boat, or parts of it. Warranties can be valuable and should be factored into your purchase.
- Have arranged finance to purchase your boat with a reputable financier at a competitive interest rate.

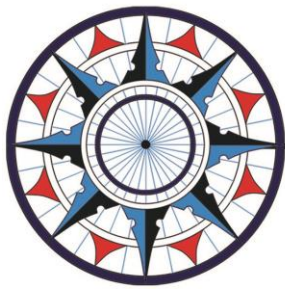
When you are really sure that this is the boat for you, well before you hand over the money or sign any document, we suggest that you take these few steps to protect your investment.

### **1. Ensure the boat is free from loans or securities**

Your first port of call is the Personal Properties and Securities Register (PPSR). The PPSR will contain information on any debts or interests (such as leases) attached to the vessel. If you buy a boat with a financial encumbrance attached, that encumbrance could be enforced against you as the new owner. For example, a boat with debts against it could be repossessed, and you will lose your investment.

If the boat is not on the PPSR then you still need to investigate whether there are any unregistered interests. Quiz the owner about the history of the boat and ask to see





proof of ownership. Receipts for moorings and boatyards might prove that they have owned the vessel legitimately over a period of time. Some brokers will ask for a statutory declaration to say that the vessel is encumbrance free.

Ideally you will be able to follow a paperwork trail from the current seller to the previous owner, and so on, back to the original builder's certificate, although this may be difficult for older boats.

## **2. Hull Identification Numbers (HIN)**

Hull identification numbers are unique and permanent. The HIN identifies the country, manufacturer, serial number and date of manufacture of the boat.

HIN are issued by the manufacturer and can be used to register encumbrances under the PPSR and register the vessel. The HIN will usually be on the hull, and are extremely useful in the case of stolen vessels.

## **3. Australian Builder's Plate (ABP)**

Check to see if the vessel has an ABP before you purchase it. If it is a vessel that requires an ABP and does not have one, it will not be able to be registered. The ABP will contain details of the boat's engine rating, weight, boating operations, maximum number of people and load allowed.

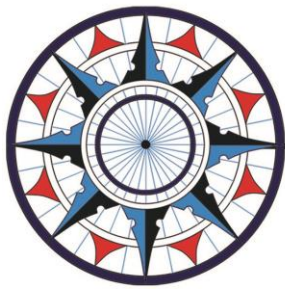
ABPs are required on all recreational powered vessels built after 2 September 2006, that are either:

- Offered for sale to the public for the first time, or
- Being registered in WA for the first time.

There are penalties for sellers attempting to sell a boat without an ABP when it is required.

## **4. Brokers**





Brokers can take a lot of legwork out of buying your vessel, arranging inspections, sorting paper work and providing a degree of legal protection. But make sure that you are using a reputable and licensed broker.

Check to see if your broker is a member of their state Boating Industry Association. Such an Association will bind the broker to a code of ethics. Unlike when buying a car, boat brokers often do not own the vessels they are selling and are acting as agents for the seller.

### **5. Obtain a legally binding sale and purchase agreement**

You should insist on using a written and legally binding boat sale purchase agreement.

If you are purchasing through a broker they will provide a standard contract. It is essential that you still read this contract to ensure that the terms protect your interest. If you are in any doubt as to the terms (which are usually about protecting the broker, not you), get independent legal advice.

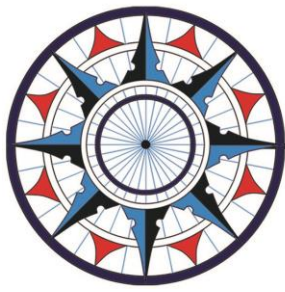
When you sign the contract it is common for a 10% deposit to be required. If you are using a broker, be sure that this deposit is paid into the broker's trust account.

### **6. Registering the boat**

In Queensland all boats with an engine of 3kW or more are required to be registered if they are on the water. Boats that are used entirely for private recreational purposes can be registered as recreational boats. Boats used for other purposes are registered as Queensland regulated ships (if used for other than commercial or recreational purposes) or as Domestic Commercial Vessels with the Australian Maritime Safety Authority (AMSA) if used for commercial purposes. This is a technical area, so if in doubt, seek legal advice.

If you intend to sail outside of Australian waters, it is essential that your boat is registered on the Australian Shipping Register. The Shipping Registration Office is part of AMSA.





In Queensland, a Form F3525 Queensland Regulated Ship Registration Application is required. If you have bought a boat and are transferring the registration than a Form 3521 Queensland Regulated Ship Registration Transfer Application will be used.

Additionally, registration numbers must be displayed on your boat so that they can be read from 30m away. Minimum sizes are prescribed by the Queensland Government.

### **7. Commercial registration? Charter parties?**

If you will be using the boat for commercial purposes, then it is likely to be a Domestic Commercial Vessel and will need to be registered with the Australian Maritime Safety Authority.

If you are purchasing a commercial vessel it is possible that other contracts will follow, for example charter parties or employment contracts. All such associated contracts will need to be transferred or made anew.

### **8. Insurance**

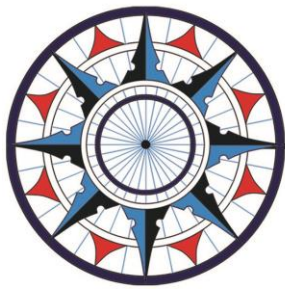
In Queensland, all boats greater than 15m in length are required to have liability insurance that covers potential pollution clean up, salvage and wreck removal. This is a requirement for boats that are even only visiting Queensland waters. In order to comply with the legislation, a current certificate of insurance must be carried onboard and be available for inspection.

We are aware of a number of prosecutions by MSQ for this offence, so it is considered to be a serious requirement.

If your boat is smaller in size, liability insurance is still a very valuable investment.

Various types of insurance will protect your different interests:





- Hull insurance protects your interest in the boat itself. If the boat is damaged hull insurance will provide cover, usually up to the insurable value. Hull insurance also contains an element of third party liability insurance for damage that your boat may cause.  
Also consider hull-interest insurance, not all hull insurances will cover total loss of your vessel, it may be an optional extra in the form of hull-interest insurance.
- Liability insurance covers your potential third party liabilities that arise as a result of salvage and pollution. The costs of a clean-up or wreck removal can accumulate very quickly making this insurance a valuable choice.
- Loss of income insurance is only really relevant for commercial vessels and protects your interest in the income that is made from your vessel. In the case that your vessel is out-of-action for a covered reason, you will receive cover for the income.

### 9. *Buying Internationally?*

What if your dream boat is being sold from Noumea? Or Taiwan? Or England? Different countries can have different requirements, and additionally there is Australian legislation that may need to be complied with. We are happy to advise on the requirements to secure your boat and bring it home.



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